

Members

Doug Stratton, Chairperson  
Sen. Vaneta Becker  
Sen. Sue Landske  
Sen. James Lewis  
Sen. Samuel Smith  
Rep. Craig Fry  
Rep. Ron Herrell  
Rep. Dick Dodge  
Rep. Gerald Torr



## INTERIM STUDY COMMITTEE ON DIALYSIS COVERAGE

LSA Staff:

Ann Naughton, Attorney for the Committee  
Bernadette Bartlett, Fiscal Analyst for the  
Committee

Authority: P.L. 111-2008 (HEA 1284-2008)

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### MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 13, 2008  
**Meeting Time:** 10:30 A.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 233  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 5

**Members Present:** Doug Stratton, Chairperson; Sen. Vaneta Becker; Sen. James Lewis; Rep. Craig Fry; Rep. Ron Herrell; Rep. Gerald Torr.

**Members Absent:** Sen. Sue Landske; Sen. Samuel Smith; Rep. Dick Dodge.

Mr. Stratton called the meeting to order at 10:35 a.m. and requested that the members introduce themselves. He read the responsibilities of the Committee and explained his plan to discuss the final report and proposed legislation during the meeting.

Mr. Stratton asked for any final offers of testimony to conclude the testimony for the Interim. With no offers of testimony received, Mr. Stratton stated that information that he had received from the dialysis facilities and insurers involved in the disagreement that gave rise to the establishment of the Committee indicated that the parties were near resolution of the disagreement.

Mr. Stratton expressed his desire that any recommendations made by the Committee with

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

respect to dialysis treatment not encourage other health care providers and insurers having a disagreement to request that the General Assembly resolve their differences in the future. He stated his belief that end stage renal disease (ESRD) is a disease requiring special treatment due to the severity of the disease and the seriousness of the effects on the patient when disagreement between dialysis facilities and insurers occurs.

Mr. Stratton enumerated several issues raised during the Committee's interim work and on which to base any recommendations, as follows:

1. Balance billing.
2. Direct benefit payments to dialysis facilities rather than patients (assignment of benefits).
3. Dispute resolution between dialysis facilities and insurers regarding networks and payment rates.
4. The fundamental obligation of good faith in negotiations between dialysis facilities and insurers.
5. The role of the state in intervening in contract disagreements in this situation and others in the future.

No additional issues were raised by the members.

Mr. Stratton asked Ms. Naughton, Attorney for the Committee, to summarize PD 3291<sup>2</sup>. PD 3291 specifies requirements related to dialysis treatment provider networks and dispute resolution, payment rates, payment, and billing. Following the summary, there was general discussion among the members regarding the draft. Concerns expressed by Sen. Becker, Rep. Fry, Rep. Torr, and Sen. Lewis included: (1) the beginning base payment rate from which future rate adjustments would be made; (2) the use of Medicare as the beginning base payment rate; (3) the need for flexibility in any limitations applied to future payment rate adjustments to allow for changing circumstances; and (4) appropriateness of government intervention in details of private contract negotiations.

Following the discussion of PD 3291, Mr. Stratton, summarizing the discussion, preliminarily suggested that the balance billing, assignment of benefits, and dispute resolution provisions from PD 3291 (perhaps with some amendment) would be appropriate for inclusion in the Committee's recommendations. The members generally agreed to the suggestions.

Mr. Stratton requested that Ms. Naughton summarize PD 3332<sup>3</sup>. PD 3332 bans provider networks for dialysis treatment and specifies requirements related to dialysis treatment payment rates, benefit parity, billing, and coverage disputes. Following the summary, there was general discussion among the members regarding the draft, including: (1) possible consequences of a ban on balance billing; (2) ability of insurers to individually negotiate payment rates; (3) possible consequences of benefit parity language; (4) the benefit to insurers of networks based on the number of patients requiring health care services provided by the network; and (5) appropriateness of government involvement in private contract negotiations.

Dan Seitz, Indiana Association of Health Plans, responded to questions from Rep. Fry, Mr. Stratton, and Rep. Torr. Mr. Seitz shared his concerns about possible antitrust challenges

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<sup>2</sup>Attachment 1.

<sup>3</sup>Attachment 2.

to a payment rate requirement and expansion of any such requirement to health care services beyond dialysis treatment services. He stated his belief that the role of the Committee in this particular situation should be to facilitate current negotiations between the parties rather than intervening in the negotiations.

The members generally agreed that the Committee's final report recommendations should be structured to facilitate resolution of contracting disagreements between dialysis facilities and insurers, rather than to resolve the disagreements through legislation. The members also generally agreed that proposed legislation should include: (1) assignment of benefits upon request of the patient; (2) arbitration for contract disputes between dialysis facilities and insurers to expedite dispute resolution for the benefit of patients; (3) a ban on balance billing; and (4) parity of dialysis benefits with other medical or surgical benefits. PD 3291 was amended to include those provisions.

The final report was amended to recommend that PD 3291, as amended, be introduced during the 2009 session of the General Assembly and was approved by the members by a show of hands of 5 yes votes and 1 no vote.

PD 3291, as amended, was approved for introduction during the 2009 session of the General assembly by a show of hands of 5 yes votes and 1 no vote.

With no further business to discuss, Mr. Stratton adjourned the meeting at 12:05 p.m.